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7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MARIBEL MURILLO, individually
11 and as successor-in-interest Of The
12 Estate of deceased, JONATHAN
MURILLO-NIX,

13
14 Plaintiff,

15 vs.

16 CITY OF LOS ANGELES, a
17 governmental entity; JESUS
MARTINEZ, individually; KYLE
18 GRIFFIN, individually; and DOES 1-
19 10, inclusive,

20 Defendants.
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Case No.

COMPLAINT FOR DAMAGES

1. Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)
2. Fourth Amendment—Excessive Force (42 U.S.C. § 1983)
3. Fourth Amendment—Denial of Medical Care (42 U.S.C. § 1983)
4. Substantive Due Process (42 U.S.C. § 1983)
5. Municipal Liability—Ratification (42 U.S.C. § 1983)
6. Municipal Liability—Inadequate Training (42 U.S.C. § 1983)
7. Municipal Liability—Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)
8. Battery (Wrongful Death)
9. Negligence (Wrongful death)
10. Violation of Cal. Civil Code §52.1

DEMAND FOR JURY TRIAL

PARTIES

6. At all relevant times, Decedent ANTHONY MURILLO-NIX was an individual residing in the City of Los Angeles, California.

7. Plaintiff MARIBEL MURILLO is an individual residing in the City of Los Angeles, California and is the mother of DECEDENT and sues both in her individual capacity and in a representative capacity as a successor-in-interest to DECEDENT pursuant to California Code of Civil Procedure § 377.60. Plaintiff seeks both survival and wrongful death damages under federal and state law.

8. At all relevant times, Defendant CITY OF LOS ANGELES (“CITY”) is and was a municipal corporation existing under the laws of the State of California. CITY is a chartered subdivision of the State of California with the capacity to be sued. CITY is responsible for the actions, omissions, policies, procedures, practices, and customs of its various agents and agencies, including the Los Angeles Police Department (“LAPD”), and its Metropolitan Division, Special Weapons and Tactics (“SWAT”), and its agents and employees. At all relevant times, Defendant CITY was responsible for assuring that the actions, omissions, policies, procedures, practices, and customs of the LAPD and its employees and agents complied with the laws of the United States and of the State of California. At all relevant times, CITY was the employer of Defendants Jesus Martinez, (“MARTINEZ”), Kyle Griffin, (“GRIFFIN”), and DOES 1-10, hereinafter collectively referred to as “the individual defendants”.

9. MARTINEZ is an officer working for the CITY, through his employment with the LAPD as Foothill Patrol Division Police Officer III, serial no. 37593. At all relevant times, MARTINEZ was acting under color of law within the course and scope of his duties as an officer for the LAPD. Also at all relevant times, MARTINEZ was acting with the complete authority and ratification of his principal, Defendant CITY.

1 10. GRIFFIN is an officer working for the CITY, through his employment
2 with the LAPD as Foothill Patrol Division Police Officer II, serial no 42066. At all
3 relevant times, GRIFFIN was acting under color of law within the course and scope
4 of his duties as an officer for the LAPD. Also at all relevant times, GRIFFIN was
5 acting with the complete authority and ratification of his principal, Defendant CITY.

6 11. DOE "ONE" is a supervisory officer working for the CITY, through
7 his employment with the LAPD. At all relevant times, DOE "ONE" was acting
8 under color of law within the course and scope of his duties as an officer for the
9 LAPD. Also at all relevant times, DOE "ONE" was acting with the complete
10 authority and ratification of his principal, Defendant CITY.

11 12. DOES TWO through TEN were officers working for the CITY,
12 through their employment with the LAPD. At all relevant times, DOES TWO
13 through TEN were acting under color of law within the course and scope of his
14 duties as officers for the LAPD. Also at all relevant times, DOES TWO through
15 TEN were acting with the complete authority and ratification of their principal,
16 Defendant CITY.

17 13. On information and belief, the foregoing individual defendants were
18 residents of the City of Los Angeles.

19 14. In doing the acts and failing and omitting to act as hereinafter
20 described, Defendants GRIFFIN, MARTINEZ were acting on the implied and actual
21 permission and consent of the supervisory officers DOES 1-10.

22 15. In doing the acts and failing and omitting to act as hereinafter
23 described, the individual defendants were acting on the implied and actual
24 permission and consent of the CITY.

25 16. At all times mentioned herein, each and every defendant was the agent
26 of each and every other defendant and had the legal duty to oversee and supervise
27 the hiring, conduct, and employment of each and every defendant.
28

1 17. All of the acts complained of herein by Plaintiff against Defendants
2 were done and performed by said Defendants by and through their authorized
3 agents, servants, and/or employees, all of whom at all relevant times herein were
4 acting within the course, purpose, and scope of said agency, service, and/or
5 employment capacity. Moreover, Defendants and their agents ratified all of the acts
6 complained of herein.

7 18. The individual defendants are sued in their individual capacity.
8

9 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

10 19. Plaintiff repeats and re-alleges each and every allegation in
11 paragraphs 1 through 18 of this Complaint with the same force and effect as if fully
12 set forth herein.

13 20. On February 2, 2022, officers working for the CITY responded to
14 DECEDENT's residence, located in the 12935 Desmond St, Pacoima, California.
15 The first group of officers arrived at approximately 2:25 a.m. on that date. The
16 officers were responding to a call regarding a man (DECEDENT) possibly under the
17 influence of alcohol wherein DECEDENT's family members advised Dispatch that
18 DECEDENT was having a mental health crisis and threatening them. Shortly after
19 arriving on scene, the family including Plaintiff were able to exit the house safely
20 leaving Anthony Murillo as the sole occupant.

21 21. Upon information and belief, while officers were staging outside of the
22 Murillo residence, a request had been made to the Mental Health Crisis team to
23 assist in getting DECEDENT out of the house.

24 22. Shortly after 2:25 a.m., Defendants DOES 1-3, who are supervisory
25 officers working for the CITY and the LAPD, established a plan to attempt entry
26 into DECEDENT's bedroom notwithstanding that DECEDENT posed no immediate
27 threat of death or serious bodily injury to any person. At this time, officers working
28

1 for the CITY had already commanded DECEDENT's family members to exit the
2 residence.

3 23. Less than an hour and a half after first arriving on scene, and without
4 waiting for the arrival of LAPD's mental health unit, Defendants DOES 1-10
5 including GRIFFIN, MARTINEZ began to engage DECEDENT with numerous 40
6 mm foam baton and bean bag shots.

7 24. In response to the unreasonable detention of DECEDENT within the
8 residence, and the physical force used on him preventing him from calmly leaving
9 the residence, DECEDENT attempted to flee from the side of the house, and ran
10 through the only exit visible, an opening through the driveway gate.

11 25. As soon as DECEDENT ran out through the gate and onto the
12 sidewalk, defendants MARTINEZ and GRIFFIN who were staged right outside the
13 same gate, opened fire discharging multiple less lethal and lethal rounds at
14 DECEDENT as he crossed the driveway threshold and unto the sidewalk.

15 26. Upon information and belief, no mental health crisis negotiation had
16 engaged with DECEDENT because the mental health crisis unit was still in route
17 when Defendants began to use force on him. The cessation of negotiation efforts
18 and the failure to wait for the arrival of MHU in this situation was a contributing
19 factor in the sustained unreasonable detention, and a cause in the use of excessive
20 force against DECEDENT.

21 27. DECEDENT did not pose an immediate threat of death or serious
22 bodily injury to anyone at the time of the shooting.

23 28. After being shot, DECEDENT was bleeding profusely and in obvious
24 and critical need of emergency medical care and treatment. Defendants did not
25 timely permit medical personnel to treat DECEDENT.

26 29. Also after DECEDENT had been shot, officers handcuffed
27 DECEDENT.
28

1 30. The delay of medical care to DECEDENT caused DECEDENT
2 extreme physical and emotional pain and suffering, and was a contributing cause of
3 DECEDENT's serious injuries.

4 31. The use of force against DECEDENT by the individual defendants was
5 excessive and objectively unreasonable under the circumstances, especially because
6 DECEDENT was suffering from a mental crisis and did not pose an immediate
7 threat of death or serious bodily injury to anyone at the time of the shooting.

8 32. Plaintiff is DECEDENT's successor-in-interest as defined in Section
9 377.11 of the California Code of Civil Procedure and succeeds to DECEDENT's
10 interest in this action as the nature mother of DECEDENT.

11
12 **FIRST CLAIM FOR RELIEF**

13 **Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)**

14 (By Plaintiff against Defendants MARTINEZ and GRIFFIN, and DOES 1-10)

15 33. Plaintiff repeats and re-allege each and every allegation in paragraphs 1
16 through 32 of this Complaint with the same force and effect as if fully set forth
17 herein.

18 34. Defendants detained DECEDENT without reasonable suspicion and
19 arrested him without probable cause.

20 35. When Defendants DOES 1-10, MARTINEZ and GRIFFIN pointed
21 their weapons at DECEDENT and used force against him, they violated
22 DECEDENT's right to be secure in his person against unreasonable searches and
23 seizures as guaranteed to DECEDENT under the Fourth Amendment to the United
24 States Constitution and applied to state actors by the Fourteenth Amendment.

25 36. Defendants' conduct was willful, wanton, malicious, and done with
26 reckless disregard for the rights and safety of DECEDENT and therefore warrants
27 the imposition of exemplary and punitive damages as to Defendants DOES 1-10,
28 MARTINEZ and GRIFFIN.

1 44. As a result of the foregoing, DECEDENT suffered great physical pain
2 and emotional distress up to the time of his death, loss of enjoyment of life, loss of
3 life, and loss of earning capacity.

4 45. The conduct of the individual defendants was willful, wanton,
5 malicious, and done with reckless disregard for the rights and safety of
6 DECEDENT, and therefore warrants the imposition of exemplary and punitive
7 damages as to the individual defendants.

8 46. The use of force was excessive and unreasonable, especially because
9 DECEDENT was suffering a mental crisis (a fact known to the involved officers at
10 the time of the incident) and posed no immediate threat of death or serious bodily
11 injury at the time of the shooting. Further, Defendants' use of force violated their
12 training and standard police officer training.

13 47. As a result of their misconduct, Defendants MARTINEZ and
14 GRIFFIN, and DOES 1-10 are liable for DECEDENT's injuries, either because they
15 were integral participants in the use of force, or because they failed to intervene to
16 prevent these violations.

17 48. Plaintiff brings this claim as successor-in-interest to the DECEDENT,
18 and seeks both survival and wrongful death damages for the violation of
19 DECEDENT's rights. Plaintiff also seeks attorney's fees under this claim.

20 **THIRD CLAIM FOR RELIEF**

21 **Fourth Amendment —Denial of Medical Care (42 U.S.C. § 1983)**

22 (By Plaintiff against Defendants MARTINEZ and GRIFFIN, and DOES 1-10)

23 49. Plaintiff repeats and re-alleges each and every allegation in
24 paragraphs 1 through 48 of this Complaint with the same force and effect as if fully
25 set forth herein.

26 50. The denial of medical care by Defendants deprived DECEDENT of his
27 right to be secure in his person against unreasonable searches and seizures as
28

1 guaranteed to DECEDENT under the Fourth Amendment to the United States
2 Constitution and applied to state actors by the Fourteenth Amendment.

3 51. As a result of the foregoing, DECEDENT suffered great physical pain
4 and emotional distress up to the time of his death, loss of enjoyment of life, loss of
5 life, and loss of earning capacity.

6 52. Defendants knew that failure to provide timely medical treatment to
7 DECEDENT could result in further significant injury or the unnecessary and wanton
8 infliction of pain, but disregarded that serious medical need, causing DECEDENT
9 great bodily harm and death.

10 53. Defendants' conduct was willful, wanton, malicious, and done with
11 reckless disregard for the rights and safety of DECEDENT and therefore warrants
12 the imposition of exemplary and punitive damages as to the individual defendants.

13 54. As a result of their misconduct, Defendants MARTINEZ and
14 GRIFFIN, and DOES 1-10 are liable for DECEDENT's injuries, either because
15 they were integral participants in the denial of medical care, or because they failed
16 to intervene to prevent these violations.

17 55. Plaintiff brings this claim as a successor-in-interest to the DECEDENT,
18 and seeks both survival and wrongful death damages for the violation of
19 DECEDENT's rights. Plaintiff also seeks attorney's fees under this claim.

20
21 **FOURTH CLAIM FOR RELIEF**

22 **Substantive Due Process (42 U.S.C. § 1983)**

23 (By Plaintiff against Defendants MARTINEZ and GRIFFIN, and DOES 1-10)

24 56. Plaintiff repeats and re-alleges each and every allegation in
25 paragraphs 1 through 55 of this Complaint with the same force and effect as if fully
26 set forth herein.

27 57. Plaintiff had a cognizable interest under the Due Process Clause of the
28 Fourteenth Amendment of the United States Constitution to be free from state

1 actions that deprive her of life, liberty, or property in such a manner as to shock the
2 conscience, including but not limited to unwarranted state interference in Plaintiff's
3 familial relationship with her son, DECEDENT.

4 58. Plaintiff's DECEDENT had a cognizable interest under the Due
5 Process Clause of the Fourteenth Amendment of the United States Constitution to be
6 free from state actions that deprive him of life, liberty, or property in such a manner
7 as to shock the conscience, including but not limited to unwarranted state
8 interference in Plaintiff's familial relationship with her son, DECEDENT.

9 59. The aforementioned actions of Defendants MARTINEZ and GRIFFIN,
10 and DOES 1-10) along with other undiscovered conduct, shock the conscience, in
11 that they acted with deliberate indifference to the constitutional rights of
12 DECEDENT and Plaintiff, and with purpose to harm unrelated to any legitimate law
13 enforcement objective.

14 60. As a direct and proximate result of these actions, DECEDENT
15 experienced pain and suffering and eventually died. Defendants thus violated the
16 substantive due process rights of Plaintiff to be free from unwarranted interference
17 with her familial relationship with DECEDENT.

18 61. As a direct and proximate cause of the acts of Defendants, Plaintiff
19 suffered emotional distress, mental anguish, and pain. Plaintiff has also been
20 deprived of the life-long love, companionship, comfort, support, society, care, and
21 sustenance of DECEDENT, and will continue to be so deprived for the remainder of
22 her natural life.

23 62. As a result of their misconduct, Defendants MARTINEZ and
24 GRIFFIN, and DOES 1-10 are liable for DECEDENT's injuries, either because they
25 were integral participants in the wrongful detention and arrest, or because they
26 failed to intervene to prevent these violations.

27 63. Defendants' conduct was willful, wanton, malicious, and done with
28 reckless disregard for the rights and safety of DECEDENT and Plaintiff and

1 therefore warrants the imposition of exemplary and punitive damages as to the
2 individual Defendants.

3 64. Plaintiff brings this claim individually and as a successor-in-interest to
4 the DECEDENT, and seeks both survival and wrongful death damages. Plaintiff
5 also seeks attorneys' fees under this claim.

6
7 **FIFTH CLAIM FOR RELIEF**

8 **Municipal Liability – Ratification (42 U.S.C. § 1983)**

9 (By Plaintiff against Defendants MARTINEZ and GRIFFIN, and DOES 1-10)

10 65. Plaintiff repeats and re-alleges each and every allegation in paragraphs
11 1 through 64 of this Complaint with the same force and effect as if fully set forth
12 herein.

13 66. Defendants MARTINEZ and GRIFFIN, and DOES 1-10 acted under
14 color of law.

15 67. The acts of the individual defendants deprived DECEDENT and
16 Plaintiff of their particular rights under the United States Constitution.

17 68. Upon information and belief, a final policymaker, acting under color of
18 law, who had final policymaking authority concerning the acts of the individual
19 defendants, ratified the acts of the defendants' acts and the bases for them. Upon
20 information and belief, the final policymaker knew of and specifically approved of
21 the individual defendants' acts.

22 69. Upon information and belief, a final policymaker has determined (or
23 will determine) that the acts of the individual defendants were "within policy."

24 70. By reason of the aforementioned acts and omissions, Plaintiff suffered
25 loss of the love, companionship, affection, comfort, care, society, training, guidance,
26 and support of DECEDENT. The aforementioned acts and omissions also caused
27 DECEDENT's pain and suffering, loss of enjoyment of life, and death.
28

1 87. Defendants CITY, MARTINEZ and GRIFFIN, together with other
2 CITY policymakers and supervisors, maintained, inter alia, the following
3 unconstitutional customs, practices, and policies:

- 4 (a) Using excessive force, including excessive deadly and non-
5 deadly force;
- 6 (b) Providing inadequate training regarding the use of deadly force;
- 7 (c) Employing and retaining as police officers individuals such as
8 Defendants MARTINEZ and GRIFFIN, whom Defendant CITY
9 at all times material herein knew or reasonably should have
10 known had dangerous propensities for abusing their authority
11 and for using excessive force;
- 12 (d) Inadequately supervising, training, controlling, assigning, and
13 disciplining CITY officers, and other personnel, including
14 Defendants MARTINEZ and GRIFFIN, who Defendant CITY
15 knew or in the exercise of reasonable care should have known
16 had the aforementioned propensities and character traits;
- 17 (e) Maintaining grossly inadequate procedures for reporting,
18 supervising, investigating, reviewing, disciplining and
19 controlling misconduct by CITY officers, Defendants
20 MARTINEZ and GRIFFIN;
- 21 (f) Failing to adequately discipline CITY police officers, including
22 Defendants MARTINEZ and GRIFFIN, for the above-referenced
23 categories of misconduct, including “slaps on the wrist,”
24 discipline that is so slight as to be out of proportion to the
25 magnitude of the misconduct, and other inadequate discipline
26 that is tantamount to encouraging misconduct;

- 1 (g) Announcing that unjustified shootings are “within policy,”
2 including shootings that were later determined in court to be
3 unconstitutional;
- 4 (h) Even where shootings are determined in court to be
5 unconstitutional, refusing to discipline, terminate, or retrain the
6 officers involved;
- 7 (i) Encouraging, accommodating, or facilitating a “blue code of
8 silence,” “blue shield,” “blue wall,” “blue curtain,” “blue veil,”
9 or simply “code of silence,” pursuant to which police officers do
10 not report other officers’ errors, misconduct, or crimes. Pursuant
11 to this code of silence, if questioned about an incident of
12 misconduct involving another officer, while following the code,
13 the officer being questioned will claim ignorance of the other
14 officers’ wrongdoing;
- 15 (j) Maintaining a policy of inaction and an attitude of indifference
16 towards soaring numbers of police shootings, including by
17 failing to discipline, retrain, investigate, terminate, and
18 recommend officers for criminal prosecution who participate in
19 shootings of unarmed people;
- 20 (k) Providing inadequate training regarding handling situations with
21 mentally ill individuals.

22 88. By reason of the aforementioned acts and omissions, Plaintiff has
23 suffered loss of the love, companionship, affection, comfort, care, society, training,
24 guidance, and past and future support of DECEDENT. The aforementioned acts and
25 omissions also caused DECEDENT’s pain and suffering, loss of enjoyment of life,
26 and death.

27 89. Defendants CITY and MARTINEZ and GRIFFIN, together with
28 various other officials, whether named or unnamed, had either actual or constructive

1 knowledge of the deficient policies, practices and customs alleged in the paragraphs
2 above. Despite having knowledge as stated above, these defendants condoned,
3 tolerated and through actions and inactions thereby ratified such policies. Said
4 defendants also acted with deliberate indifference to the foreseeable effects and
5 consequences of these policies with respect to the constitutional rights of
6 DECEDENT, Plaintiff, and other individuals similarly situated.

7 90. By perpetrating, sanctioning, tolerating and ratifying the outrageous
8 conduct and other wrongful acts, MARTINEZ and GRIFFIN acted with intentional,
9 reckless, and callous disregard for the life of DECEDENT and for DECEDENT's
10 and Plaintiff's constitutional rights. Furthermore, the policies, practices, and
11 customs implemented, maintained, and still tolerated by Defendants CITY and
12 MARTINEZ and GRIFFIN were affirmatively linked to and were a significantly
13 influential force behind the injuries of DECEDENT and Plaintiff.

14 91. The following are only a few examples of continued misconduct by
15 officers working for Defendant CITY. These examples demonstrate an
16 unconstitutional custom, policy, and practice of using deadly force against unarmed
17 civilians, and ratifying that use of deadly force and/or finding the use of deadly
18 force to be justified or "within policy":

- 19 a) In *Contreras v. City of Los Angeles*, case number 2:11-cv-01480-SVW
20 (SHx), the CITY argued that the use deadly force against Mr. Contreras
21 by LAPD officers was reasonable; a unanimous jury disagreed,
22 awarding Mr. Contreras \$5,700,000 after finding that the involved
23 officers used excessive and unreasonable force when they shot an
24 unarmed Mr. Contreras. Police reports confirmed that Mr. Contreras
25 was unarmed. In that case, the involved officers were not disciplined
26 or retrained for their use of deadly force, and the CITY found that the
27 shooting was justified and did not violate any CITY policy.
28

1 b) In *P.C., et al. v. City of Los Angeles*, case number CV 07-3413 PLA,
2 the CITY argued that the involved LAPD officers' use of force was
3 reasonable; a unanimous jury disagreed, awarding the plaintiffs a total
4 of \$3,215,000 after finding that the involved officers' use of force was
5 excessive and unreasonable. In that case, the involved officers were
6 not disciplined or retrained for their use of deadly force, and the CITY
7 found that the shooting was justified and did not violate any CITY
8 policy.

9 c) In *Cano, et al. v. City of Los Angeles*, case number 2:15-cv-00333-
10 JAK-E, the family of an unarmed man (David Martinez) who was shot
11 and killed by LAPD Rampart officers alleged that the force used by the
12 officers was excessive and unreasonable. Police reports confirmed that
13 Mr. Martinez was unarmed at the time of the shooting. In that case, the
14 involved officers were not disciplined or retrained for their use of
15 deadly force, and the CITY found that the shooting was justified and
16 did not violate any CITY policy.

17 d) In *Wysocki v. City of Los Angeles*, case number
18 2:15-cv-09587-PA-GJS, currently pending in the United States
19 District Court for the Central District of California, the mother of a
20 mentally ill veteran (Michael Mears) who was killed by LAPD officers
21 after the officers used Tasers, pepper spray, and police batons against
22 him at his own residence alleges that the force used by the officers was
23 excessive and unreasonable. Police reports confirm that Mr. Mears was
24 unarmed during the incident. In that case, the involved officers were
25 not disciplined or retrained for their use of deadly force, and the CITY
26 found that the shooting was justified and did not violate any CITY
27 policy.
28

92. Accordingly, Defendants CITY and MARTINEZ and GRIFFIN each are liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

93. Plaintiff brings this claim individually and as a successor-in-interest to DECEDENT, and seeks both survival and wrongful death damages under this claim. Plaintiff also seeks punitive damages and attorneys' fees under this claim.

EIGHTH CLAIM FOR RELIEF

Battery

(Wrongful Death)

(Against Defendants CITY, MARTINEZ and GRIFFIN)

94. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 91 of this Complaint with the same force and effect as if fully set forth herein.

95. MARTINEZ, GRIFFIN and DOES 1-10, while working as officers for the LAPD, and acting within the course and scope of their duties, intentionally shot DECEDENT multiple times and used unreasonable and excessive force against him. As a result of the actions of MARTINEZ, GRIFFIN and DOES 1-10, Decedent suffered severe pain and suffering and ultimately died from his injuries. MARTINEZ, GRIFFIN and DOES 1-10 had no legal justification for using force against DECEDENT, and their use of force while carrying out their duties as police officers, crisis negotiation officers, and/or LAPD Special Weapons and Tactics team officers was an unreasonable and nonprivileged use of force.

96. CITY is vicariously liable for the wrongful acts of Defendants MARTINEZ, GRIFFIN and DOES 1-10 pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

97. The conduct of MARTINEZ, GRIFFIN and DOES 1-10 was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of Plaintiff and DECEDENT, entitling Plaintiff, individually and as successor-in-interest to DECEDENT, to an award of exemplary and punitive damages as to Defendants MARTINEZ, GRIFFIN and DOES 1-10.

98. Plaintiff brings this claim as successor-in-interest to DECEDENT, and seeks both survival and wrongful death damages under this claim. Plaintiff also seeks punitive damages and attorneys' fees under this claim.

NINTH CLAIM FOR RELIEF

Negligence

(Wrongful Death)

(Against all Defendants)

99. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 98 of this Complaint with the same force and effect as if fully set forth herein.

100. Police officers, including Defendants, have a duty to use reasonable care to prevent harm or injury to others. This duty includes appropriate tactics, giving appropriate commands, giving warnings, and not using any force unless necessary, using less than lethal options, and only using deadly force as a last resort.

101. Defendants DOES 1-10 breached this duty of care. Upon information and belief, the actions and inactions of Defendants DOES 1-10 were negligent and reckless, including but not limited to:

(a) The failure to properly and adequately assess the need to detain, arrest, and use force or deadly force against
DECEDENT;

1 (b) the negligent tactics and handling of the situation with
2 DECEDENT, including pre-shooting and pre-Tasing
3 negligence;

4 (c) the negligent detention, arrest, and use of force,
5 including deadly force, against DECEDENT;

6 (d) the failure to provide prompt medical care to
7 DECEDENT;

8 (e) the failure to properly train and supervise employees, both
9 professional and non-professional, including MARTINEZ,
10 GRIFFIN and DOES 1-10;

11 (f) the failure to ensure that adequate numbers of employees
12 with appropriate education and training were available to
13 meet the needs of and protect the rights of DECEDENT;

14 (g) the negligent handling of evidence and witnesses;

15 (h) the negligent communication of information during the
16 incident;

17 (i) the failure to properly train MARTINEZ, GRIFFIN and
18 DOES 1-10 with regard to handling situations involving
19 mentally ill individuals;

20 102. As a direct and proximate cause of Defendant's conduct as
21 alleged above, and other undiscovered negligent conduct, DECEDENT was
22 caused to suffer severe pain and suffering and ultimately died. Also as a
23 direct and proximate result of Defendants' conduct as alleged above, Plaintiff
24 suffered emotional distress and mental anguish. Plaintiff has been deprived of
25 the life-long love, companionship, comfort, support, society, care and
26 sustenance of DECEDENT, her son, and will continue to be so deprived for
27 the remainder of her natural life.

28 103. CITY is vicariously liable for the wrongful acts of Defendants

1 MARTINEZ, GRIFFIN and DOES 1-10 pursuant to section 815.2(a) of the
2 California Government Code, which provides that a public entity is liable for
3 the injuries caused by its employees within the scope of the employment if
4 the employee's act would subject him or her to liability.

5 104. Plaintiff brings this claim as successor-in-interest to DECEDENT, and
6 seeks both survival and wrongful death damages under this claim. Plaintiff also
7 seeks punitive damages and attorneys' fees under this claim.

8
9 **TENTH CLAIM FOR RELIEF**

10 **Violation of Cal. Civil Code § 51.2**

11 (Against all Defendants)

12 105. Plaintiff repeats and re-alleges each and every allegation in
13 paragraphs 1 through 104 of this Complaint with the same force and effect as
14 if fully set forth herein.

15 106. California Civil Code, Section 52.1 (The Bane Act), prohibits
16 any person from using violent acts or threatening to commit violent acts in
17 retaliation against another person for exercising that person's constitutional
18 rights.

19 107. On information and belief, Defendants MARTINEZ, GRIFFIN
20 and DOES 1-10, while working for the CITY and acting within the course
21 and scope of their duties, intentionally committed and attempted to commit
22 acts of violence against DECEDENT, including shooting him without
23 justification or excuse, by integrally participating and failing to intervene in
24 the above violence, and by denying him necessary medical care.

25 108. When Defendants shot DECEDENT, they interfered with his
26 civil rights to be free from unreasonable searches and seizures, to due
27 process, to equal protection of the laws, to medical care, to be free from state
28 actions that shock the conscience, and to life, liberty, and property.

1 109. On information and belief, Defendants intentionally and
2 spitefully committed the above acts to discourage DECEDENT from
3 exercising his civil rights, to retaliate against him for invoking such rights, or
4 to prevent him from exercising such rights, which they were fully entitled to
5 enjoy.

6 110. On information and belief, DECEDENT reasonably believed
7 and understood that the violent acts committed by Defendants MARTINEZ,
8 GRIFFIN and DOES 1-10, inclusive, were intended to discourage them from
9 exercising the above civil rights, to retaliate against them, or invoking such
10 rights, or to prevent them from exercising such rights.

11 111. Defendants successfully interfered with the above civil rights of
12 DECEDENT and Plaintiff.

13 112. The conduct of Defendants was a substantial factor in causing
14 Plaintiff's harms, losses, injuries and damages.

15 113. CITY is vicariously liable for the wrongful acts of Defendants
16 MARTINEZ, GRIFFIN and DOES 1-10 pursuant to section 815.2(a) of the
17 California Government Code, which provides that a public entity is liable for
18 the injuries caused by its employees within the scope of the employment if
19 the employee's act would subject him or her to liability.

20 114. Defendants DOES 6-10 are vicariously liable under California
21 law and the doctrine of *respondeat superior*.

22 115. The conduct of Defendants was malicious, wanton, oppressive,
23 and accomplished with a conscious disregard for DECEDENT's and
24 Plaintiff's rights, justifying an award of exemplary and punitive damages as
25 to Defendants DOES 1-10.

26 116. Plaintiff brings this claim as successor-in-interest to DECEDENT, and
27 seeks both survival and wrongful death damages under this claim. Plaintiff also
28 seeks punitive damages and attorneys' fees under this claim.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff request entry of judgment in their favor and against Defendants City of Los Angeles, Jesus Martinez; Kyle Griffin and Does 1-10, inclusive, as follows: (1) For compensatory damages in whatever other amount may be proven at trial, including both survival damages, loss of life, loss of enjoyment of life and wrongful death damages under federal and state law; (2) For funeral and burial expenses, and loss of financial support; (3) For punitive damages against the individual defendants in an amount to be proven at trial; (4) For statutory damages; (5) For interest; (6) For reasonable attorneys' fees, including litigation expenses; (7) For costs of suit; and (8) For such further other relief as the Court may deem just, proper, and appropriate.

DATED: May 10, 2022

SEHAT LAW FIRM PLC

Bv /s/ Cameron Sehat
Cameron Sehat, Esq.
Mónica Reyes-Santiago
Attorneys for Plaintiff Maribel Murillo

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: May 10, 2022

SEHAT LAW FIRM PLC

By /s/ Cameron Sehat
Cameron Sehat, Esq
Mónica Reyes-Santiago, Esq.
Attorneys for Plaintiff Maribel Murillo